

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**DOUGLAS HANDSHOE**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO. 1:15-CV-382-HSO-JCG**

**VAUGHN PERRET, CHARLES LEARY &  
DANIEL ABEL D/B/A TROUT POINT  
LODGE LTD OF NOVA SCOTIA & IN  
THEIR INDIVIDUAL CAPACITIES,  
PROGRESS MEDIA GROUP LIMITED,  
MARILYN SMULDERS, TORSTAR  
CORPORATION, NATIONAL GEOGRAPHIC  
SOCIETY, XYZ FOUNDATION & JOHN  
DOES 1-50**

**DEFENDANTS**

**NATIONAL GEOGRAPHIC SOCIETY’S RESPONSE  
IN OPPOSITION TO PLAINTIFF’S MOTION  
FOR LEAVE TO FILE AMENDED COMPLAINT**

COMES NOW Defendant, National Geographic Society (“NGS”), by and through its undersigned counsel of record and files this its Response in Opposition to Plaintiff, Douglas Handshoe’s, Motion For Leave to File Amended Complaint, and in support thereof would show unto the Court as follows:

It is well established that a motion to amend a pleading may be denied where such amendment would be futile. That is plainly the case here. Plaintiff has already amended his Complaint once in an attempt to state a valid claim against NGS. As explained in NGS’ memorandum in support of its motion to dismiss the Amended Complaint (the “Motion to Dismiss”), that amendment did nothing to fix fatal flaws in the complaint, including that Plaintiff does not have standing to bring any of the claims that appear in any version of the Complaint and that Plaintiff has failed to state a claim for any of the Complaint’s counts. See D.E. 15. Plaintiff’s proposed Second Amended Complaint similarly does not – and cannot – remediate

these fundamental flaws. Because allowing the Plaintiff to file the proposed Second Amended Complaint would be futile, the Motion for Leave to Amend should be denied.

WHEREFORE, PREMISES CONSIDERED, Defendant, National Geographic Society, respectfully requests this Court deny Plaintiff's Motion For Leave to File Amended Complaint as Plaintiff's proposed Second Amended Complaint fails to correct the fatal flaws in his prior Amended Complaint and, for that reason, the amendment is futile.

Respectfully submitted,

DATED: February 24, 2016

/s/ Jonathan P. Dyal  
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*Attorneys for Defendant National Geographic Society*

**CERTIFICATE OF SERVICE**

I, the undersigned counsel, do hereby certify that I have this day electronically filed the foregoing with the Clerk of Court using the ECF system, which sent notification of such filing to all counsel of record who have registered with the ECF system.

This the 24th day of February, 2016.

/s/ Jonathan P. Dyal